

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
AT NASHVILLE

DAVID EARL MILLER, et al., )  
Plaintiffs, ) CAPITAL CASE  
v. )  
TONY PARKER, et al., ) No. 3:18-cv-01234  
Defendants. ) JUDGE CAMPBELL

**DEFENDANTS' SUPPLEMENTAL RESPONSE IN OPPOSITION TO  
PLAINTIFFS' "EMERGENCY MOTION" FOR DISCLOSURE  
OF INFORMATION ON METHOD OF EXECUTION**

On November 21, 2018, Miller filed an “emergency” motion (“Motion”) seeking “immediate disclosure” of information regarding the method the State of Tennessee will use to carry out his death sentence on December 6, 2018. Emergency Motion, Doc. No. 31. In it, he claimed that he needed detailed information from the Defendants about lethal injection and electrocution in order to make an “informed” decision about his method of execution. Miller also requested that he be granted a three-day extension of time until November 29, 2018, at 5:00 p.m. to complete an Affidavit Concerning Execution Method which was presented to his counsel. *Id.* at p. 12. This Court directed the Defendants to respond to the motion no later than Friday, November 23, 2018, Order, Doc. No. 32, and Defendants responded as directed. Response, Doc. No. 33.

This morning, Monday, November 26, 2018, undersigned counsel was notified by the Department that Miller had presented a signed document to officials at Riverbend Maximum Security Institution on November 23, 2018, which states, "I waive lethal injection and wish to be

electrocution [sic].” The document appears to be signed by Miller and is dated November 23, 2018. Copies of the document and cover envelope are attached.

Miller’s waiver renders moot his request for “immediate disclosure of information” regarding the method of execution that will be used to carry out his sentence on December 6, 2018, and his accompanying request for an extension of the deadline to elect his method of execution. The Motion should thus be denied as moot.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I certify that, on the 26th day of November 2018, a copy of the foregoing Supplemental Response was filed and served by operation of the Court's ECF/PACER system on the following counsel for the Plaintiffs: Stephen M. Kissinger, Asst. Federal Community Defender, 800 S. Gay Street, Suite 2400, Knoxville, TN 37929.

*/s/ Scott C. Sutherland*  
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